

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
DECEMBER 2005**



On October 17, 2005, the *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005* went into effect. Listed below are issues the court would like to bring to the attention of e:filers.

1. **CERTIFICATE OF CREDIT COUNSELING** - There is no official court form for this.
 - Individual debtors should participate in Credit Counseling prior to filing for bankruptcy. See page 2 of Official Form 1 (Voluntary Petition). US Trustee approved Credit Counselors are posted on our website under the BAPCPA link.
 - A Credit Counseling Certificate is a required document for case opening. It is filed separate from the petition using the CM/ECF event, *Certificate of Credit Counseling* found in the Misc Events category. If it is a joint debtor case, both debtors must participate in Credit Counseling and the Certificate must be filed twice. Please use the *Certificate of Credit Counseling - Joint Debtor* event for the second filing. If one Certificate applies to both debtors, you may upload the same Certificate in each event.
 - If debtors obtain a Repayment Plan upon completion of credit counseling, do not upload that as an attachment to the *Certificate of Credit Counseling*. Please use the *Debtor Repayment Plan* event found in the Misc. Events category.
 - If applicable, debtors may receive a 30 day extension by filing a Certification using the CM/ECF event *Exigent Circumstances RE: Credit Counseling* found in the Misc Events category. Please note that this is an extension of time and not a waiver of the requirement to participate in credit counseling.
 - If applicable, debtors may file a *Motion for Exemption from Credit Counseling* found in the Motions/Applications category.
 - Failure to file a Credit Counseling Certificate, Certificate of Exigent Circumstances or a Motion for Exemption from Credit Counseling at the time of case commencement will result in a Deficiency Notice. If you are filing one of these documents in response to the Deficiency Notice, be sure to use one of the Credit Counseling events noted above. **Do not** use the *Missing Documents Filed* event.

2. **FINANCIAL MANAGEMENT COURSE** - See Official Form 23

- Individual Chapter 7 and 13 debtors must attend a Financial Management Course before receiving a discharge. US Trustee approved Financial Management Courses are posted on our website under the BAPCPA link.
- In Chapter 7 cases, a Financial Management Course Certificate (Official Form 23) must be filed within 45 days of the 341(a) meeting using the CM/ECF event *Financial Management Course* found in the Misc Events category. If it is a joint debtor case, both debtors must attend and the Certificate must be filed twice. Please use the *Financial Management Course - Joint Debtor* event for the second filing. If one Certificate applies to both debtors, you may upload the same Certificate in each event.
- In Chapter 13 cases, a Financial Management Course Certificate (Official Form 23) must be filed no later than the date of the last plan payment.
- If applicable, debtors may file a Motion for Exemption from Financial Management Course. Official Form 23 contains a section for Exemptions and may be filed as an attachment to the motion.

3. **RENT DEPOSITS**

- The new exception to the automatic stay applies to any eviction or similar proceeding against a debtor tenant if the landlord has obtained a judgment for possession of the leasehold prior to the date of the filing of the petition.
- If the debtor has a pre-petition judgment, (see page 2 of the voluntary petition), the debtor must forward to the court any rent that would become due during the 30 day period after the filing of the petition. Please submit to the court a certified or cashier's check or money order made **payable to the lessor** and include a copy of the judgement for possession. The court will then transmit the check to the lessor by certified mail, return receipt requested.
- The debtor may satisfy the requirements of 11 U.S.C. §362(1)(1) by
(1) completing all three check boxes on page 2 of the petition in the section captioned *Statement by a Debtor who Resides as a Tenant of Residential Property*. The debtor must also serve a copy of the petition on the lessor and e:file a *Certificate of Service* (found in the Misc. Events category) **OR**
(2) complete box 1 and e:file a *Certification and Intent to Cure* after completing the case opening steps. A *Certificate of Service* must be uploaded as an attachment to the *Certification and Intent to Cure* (there is no official court form for this).
- The debtor has 30 days from the date of the filing of the petition to file a *Cure of Residential Judgment* (found in the Misc. Events category).

- If the debtor has a pre-petition judgment and fails to file the rent deposit and the *Certification and Intent to Cure*, the Clerk's Office will immediately serve a certified copy of the docket on the debtor and the lessor.

4. TAX RETURNS

- Debtors must file a copy of the most recent tax returns **with the Trustee** no later than 7 days prior to the 341(a) meeting. Please do not file tax returns as part of the petition.
- **Exception:** Chapter 11 Small Business debtors must file tax returns with the court at the time of case opening. To restrict outside access to these documents it is important to use the *Tax Information* event found in the Misc. Events category. Once the filing is complete, only court users can view the .pdf. Parties seeking access to tax information must file the appropriate motion.

5. PAY STUBS

- Pursuant to the *General Order addressing the provision of pay stubs in accordance with 11 U.S.C. §521*, please present payment advices (pay stubs) to the trustee at the 341(a) meeting. The *General Order* is posted on the court's website under the BAPCPA link.

6. NOTICING

- The judiciary's noticing firm (BNC) will automatically update each case's creditor list with preferred addresses submitted pursuant to the Act. To get an accurate list of creditors in a case, including those that have been updated via the filing of a Preferred Address, access the Creditor Mailing Matrix by clicking on Utilities → Mailings → Creditor List. The matrix is in 3 column label format. Users must have a Pacer login and password and will be charged 8 cents per page, but will not receive a transaction receipt. Additional noticing information is posted on the court's website under the BAPCPA link.
- In the near future, the court will implement RPM (Reduced Paper Module) in an effort to reduce redundant noticing. When implemented, e:filers will no longer receive paper notices from the judiciary's noticing center (BNC), but will continue to receive Notices of Electronic Filing containing the underlying documents.

Please note: E:filers will continue to receive 341 notices via the BNC since it is the only version provided that contains the debtor's full social security number.

E:FILING GUIDANCE

- Please note that there is a list of new events created for BAPCPA posted on our website. Click on the BAPCPA link and scroll down to *Advice for CM/ECF Users*. Click on *New Events List*.
- See also CM/ECF Event Lists on our website. Event Lists for most of the Bankruptcy categories are posted here and provide e:filing guidance. The new BAPCPA events also appear in the appropriate lists and are highlighted with a BAPCPA stamp.
- The court welcomes your feedback on the information posted on our website. Please contact a member of the Analyst Department so that we can better serve the bar and public.

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